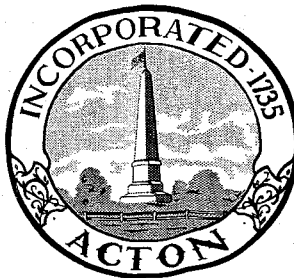
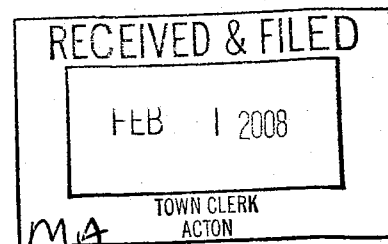


Planning



DECISION 08-01

DECISION ON THE PETITION BY MICHAEL KING, 348 MAIN STREET

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, January 7 at 7:30 P.M. on the petition by Michael King for a VARIANCE from the requirements of Section 5 Table of Standard Dimensional Regulations of the Zoning Bylaw to allow the construction of a single family dwelling on a nonconforming lot. The lot is located at 348 Main Street. Map F3/Parcel 61.

Board members present at the hearing were Kenneth Kozik, Chairman; Cara Voutselas, Member; Marilyn Peterson, Member; Cheryl Frazier, Board of Appeals Secretary and Roland Bartl, Town Planner. Also present were the petitioner, Michael King and his wife, and abutters Wendell Graham and Hong Lu.

Mr. Kozik read the contents of the file and asked the petitioner to begin.

Michael King began his presentation by explaining that he and his wife bought their property at 348 Main Street with the intention of subdividing it to create two building lots (Lots 1 and 2). Upon learning that that the second of the two lots did not meet minimum lot size requirements, they purchased a small section of land (known as Parcel A) from their neighbors to create a conforming building lot. Mr. King explained that both lots have been approved by the Acton Planning Board. In addition, they received Board of Health approval for a 4-bedroom septic system, an Order of Conditions from the Conservation Commission and approval from Mass Highway. Subsequent to purchasing Parcel A but before closing on their construction loan to build a house on Lot 2, Mr. King stated that he learned of several liens on Parcel A. Mr. King stated that at this point, his bank refused to offer the loan. After pursuing several different options for the property, Mr. King stated that he and his wife decided to petition the Board of Appeals for a variance to allow the construction of a single family dwelling on Lot 2 without the addition of Parcel A.

Upon questioning from the Board, Mr. King stated that there is nothing unique about his lot regarding its shape, size or topography in relation to the neighborhood. He did state, however, that he felt his situation is unique in that he and his wife actually own a conforming building lot when Parcel A is included. He explained that his problem is that because of lack of clear title to Parcel A, the bank won't give him a loan, and therefore, he and his wife are faced with this petition for a variance for a lot that does not include Parcel A.

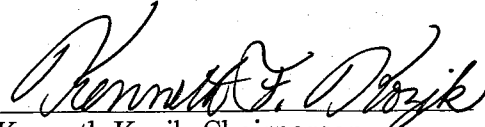
The Board of Appeals, after considering the materials submitted with petition, together with the information developed at the hearing finds that:

1. Lots 1 and 2 at 348 Main Street are located in the R-2 zoning district.
2. Lot 1 meets the zoning requirements of Section 5 Table of Standard Dimensional Regulations.
3. Lot 2 without the addition of Parcel A does not meet the Section 5 zoning requirements as to minimum lot size. In the R-2 zoning district, the minimum lot size for a lot of 100 feet frontage is 40,000 square feet. Lot 2 without Parcel A is 37,237 square feet.
4. The Petitioner seeks a VARIANCE from the minimum lot size requirement to allow the construction of a single family dwelling on a nonconforming lot.
5. This Petition presents an unusual situation because the Petitioner does, in fact, own a conforming lot and, absent the issues with the bank, could build a single family dwelling on Lot 2.
6. The Petitioner's financing issues do not relate to the soil conditions, shape or topography of Lot 2.
7. Desirable relief may not be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

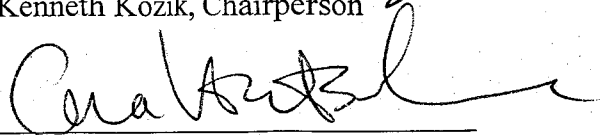
Therefore, the Board of Appeals, after reviewing the available materials and based on the above findings, voted to DENY the VARIANCE from Section 5, Table of Standard Dimensional Regulations, of the Zoning Bylaw to allow the construction of a single family dwelling on a nonconforming lot.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

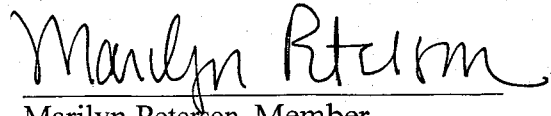
TOWN OF ACTON BOARD OF APPEALS



Kenneth Kozik, Chairperson



Cara Voutselas, Member



Marilyn Peterson, Member